

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

RONALD WAYNE BUNTON,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. H-07-2979
	§	
S.R. LESLIE, et al.,	§	
	§	
Defendants.	§	

MEMORANDUM OPINION AND ORDER

Ronald Wayne Bunton, an inmate with a history of filing frivolous pleadings, has filed another prisoner civil rights complaint against jail officials. Bunton filed the action without paying the filing fee in advance. This action will be dismissed pursuant to the provisions of 28 U.S.C. § 1915(g).

Bunton alleges that employees of the Harris County Jail assaulted him on June 15, 2007. The assault purportedly took place after the officials accused Bunton of misusing his medication. Bunton claims that he was thrown to the floor causing his lower body to "go dead." See Complaint, Docket Entry No. 1, at 6. The officials then placed Bunton in solitary confinement where he remained until sensation returned to the affected areas. Id.

Bunton asserts that he filed a grievance as well as a sworn affidavit to have charges brought against the jail officials for committing the assault. Id. However, no charges were filed.

Instead, Bunton received a notice from the Harris County District Clerk's Office stating that the clerks did not have to accept documents from an incarcerated individual. Bunton argues that the response is a denial of his right to equal protection, and therefore Harris County District Clerk is included as a defendant. Docket Entry No. 1 at 6. The Harris County Sheriff is also named as a defendant because Bunton asserts that he hired the individuals who were responsible for the assault. Id. at 7. Bunton claims that officers at the jail have been forced to use performance enhancing drugs in order to work mandatory overtime hours. Id. He also claims that the Sheriff is aware of the deficiencies in the jail and at the Harris County District Clerk's Office. Id. Bunton seeks compensation for his injuries and an investigation and charges against the assailants. Id. at 5.

Bunton did not pay the filing fee when he submitted his complaint. Barring a show of imminent danger, under the Prison Litigation Reform Act of 1995, a prisoner may not file an action without prepayment of the filing fee, if he has, on three or more prior occasions, filed a prisoner action in federal district court or an appeal in a federal court of appeals that was dismissed as frivolous or malicious. 28 U.S.C. § 1915(g); Adepegba v. Hammons, 103 F.3d 383, 385 (5th Cir. 1996). Bunton has accumulated at least three such dismissals, and is no longer allowed to proceed in forma pauperis pursuant to the provisions of section 1915(g). See Bunton

v. Diagnostic Unit, H-95-1127 (S.D. Tex. May 28, 1996); Bunton v. TDCJ, No. H-95-0844 (S.D. Tex. Jan. 5, 1996); Bunton v. Cox, No. 9:95cv425 (E.D. Tex. Sept. 18, 1995).


Bunton's allegations concerning an assault that occurred three months before the complaint was filed do not indicate that he is in any immediate danger that would warrant waiver of the fee requirement. See Choyce v. Dominguez, 160 F.3d 1068, 1071 (5th Cir. 1998); Banos v. O'Guin, 144 F.3d 883, 884 (5th Cir. 1998).

In light of the pleadings and his litigation history, Bunton has failed to show that he is eligible to proceed as a pauper. Consequently, this action should be dismissed pursuant to 28 U.S.C. § 1915(g).

The court will dismiss this action without prejudice to refiling with advance payment of the entire filing fee.

The Clerk shall send a copy of this Memorandum Opinion and Order to the TDCJ - Office of the General Counsel, P.O. Box 13084, Austin, Texas 78711, Fax Number (512) 936-2159; and the District Clerk for the United States District Court, Eastern District of Texas, Tyler Division, 211 West Ferguson, Tyler, Texas 75702.

SIGNED at Houston, Texas, on this 2nd day of October, 2007.


SIM LAKE
UNITED STATES DISTRICT JUDGE